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## ***Public Utilities Commission of the State of California***

***Public Agenda 3081  
Thursday, February 7, 2002, 10 a.m.  
San Francisco, California***

**Commissioners**  
**Loretta M. Lynch, President**  
**Henry M. Duque**  
**Richard A. Bilas**  
**Carl W. Wood**  
**Geoffrey F. Brown**

*For each agenda item, a summary of the proposed action is included; the Commission's decision may, however, differ from that proposed.*

*Website: <http://www.cpuc.ca.gov>*

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### **Scheduled Commission Meetings 505 Van Ness Avenue, San Francisco**

<i>Ratesetting Deliberative Meeting*</i> Room 5305 (1:30 p.m.) <b><i>Closed to the Public</i></b>	<i>Commission Meeting</i> Auditorium (10 a.m.) <b><i>Open to the Public</i></b>
Monday, February 4	Thursday, February 7
Friday, February 15	Thursday, February 21
Friday, March 1	Wednesday, March 6
Monday, March 18	Thursday, March 21
Monday, April 1	Thursday, April 4

*\*Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held. A "✓" next to the date indicates that the meeting will be held. A "✓" next to the item number on the Agenda indicates that the matter will be considered during the Ratesetting Deliberative Meeting.*

*A "◆" next to the item number on the Agenda indicates that the matter may be considered during Closed Session pursuant to Public Utilities Code Section 1701.2(c); thereafter the Commissioners will reconvene in Public Session to vote on the item.*

#### ***Matters of Public Interest***

***For the convenience of the public and media representatives, items of widespread public interest will be taken up at the beginning of the meeting.***



This location is accessible to people with disabilities. If specialized accommodations for the disabled are needed, e.g. sign language interpreters, please call the Public Advisor at (415) 703-2074 or TTY# (415) 703-5282 or toll free # 1-866-836-7825 three business days in advance of the meeting.

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## PUBLIC COMMENT

The following items are not subject to public comment:

- All items on the closed session agenda; these are HEX and EX items.
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## CONSENT AGENDA

*Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.*

## ORDERS AND RESOLUTIONS

- CA-1**      **Res TL-18991** - Resolution approving issuance of charter-party carrier certificates pursuant to Section 5374(b) of the Public Utilities Code.
- CA-2**      **Res ALJ-176-3081** - Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.
- CA-3**      **A01-05-012 – SCX, Inc. (SCX).**  
This decision approves the application of SCX to operate scheduled vessel common carrier service between San Diego and Oceanside, and unscheduled vessel common carrier service between San Diego, Oceanside, and Marina Del Rey, subject to the condition that SCX or protestant Sea Planes, Inc, may file a petition to modify this decision within six months of commencement of the service. This proceeding is closed.  
(Com Bilas – ALJ Ryerson)  
(Agenda 3079, Item CA-17, 1/9/02; Agenda 3080, Item CA-20, 1/23/02; Req- Commission)

- CA-4            A92-12-043 – Pacific Gas and Electric Company (PG&E).**  
For an Order Pursuant to Section 1005.5(b) of the Public Utilities Code to increase the maximum cost specified in PG&E's certificate of public convenience and necessity to construct the California portion of the expansion of its natural gas pipeline. A93-03-038, A94-05-035, A94-06-034, A94-09-056, A94-06-044, A96-08-043, R90-02-008, R88-08-018, R92-12-016, I92-12-017, A92-07-049, A95-02-008, A95-02-010, A94-11-015, A93-04-011, A94-04-002, A95-04-002, A96-04-001, A94-12-039 – Related matters. This decision denies the Northern California Generation Coalition's petition to modify D97-08-055 and Res G-3288. These proceedings are closed.  
(Com Bilas – ALJ Wong)  
(Section 311(g)(1).)
- CA-5            A01-10-022 – 8X8, Inc.**  
This decision grants 8X8, Inc. a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange and interexchange telecommunications service. This proceeding is closed.  
(Com Wood – ALJ O'Donnell)
- CA-6            A01-07-041 - NewWave Communications, Inc.**  
This decision grants NewWave Communications, Inc. a certificate of public convenience and necessity to resell local exchange and interexchange telecommunications service. This proceeding is closed.  
(Com Wood – ALJ O'Donnell)
- CA-7            A01-10-004 – Verizon California Inc.**  
This decision grants Verizon California Inc. a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange telecommunications service in the territories of Roseville Telephone Company, and Citizens Telecommunications Company of California, Inc. This proceeding is closed.  
(Com Wood – ALJ O'Donnell)
- CA-8            Res W-4321 – Arrowhead Manor Water Company, Inc. (AMWC).**  
This resolution authorizes AMWC an offset rate increase of \$14,959 or 5.3 % in additional revenue due to purchased water, contract work, and purchased power costs.  
(Advice Letter 44-W filed August 17, 2001)

- CA-9            Res W-4322 – Mar Vista Water Company (MVWC).**  
This resolution authorizes MVWC an offset rate increase of \$3,617 or 5.9 % in additional revenue due to purchased power costs.  
(Advice Letter 28 filed December 4, 2001)
- CA-10           A99-08-021 - Pacific Fiber Link, LLC.**  
For modification of its certificate of public convenience and necessity to review proponent's environmental assessment for compliance with the California Environmental Quality Act. This decision extends the statutory deadline for resolving this case pursuant to Pub. Util. Code § 1701.2(d) to October 11, 2002.  
(Com Duque – ALJ Walker)
- CA-11           Res T-16634 –** This resolution grants the request for voluntary revocation of the certificates of public convenience and necessity held by ILD Telecommunications, Inc.,(U-5168), Paging network of Los Angeles, Inc., (U-5758), and US XChange of California, L.LC.(U-5823).
- CA-12           Res W-4323 – Twin Valley Water Company, Inc. (TVWC).**  
This resolution authorizes TVWC an offset rate increase of \$19,877 or 35.1% in additional revenue due to purchased power costs and pump assessments.  
(Advice Letter 15 filed October 15, 2001)
- CA-13           Res W-4324 – Arrowhead Manor Water Company, Inc. (AMWC).**  
This resolution authorizes AMWC the recovery of cost of legal fees associated with an easement transfer producing an increase in annual revenue of \$9,431 or 3.3%.  
(Advice Letter 45-W filed October 1, 2001)
- CA-14           Res T-16631 – ICG Telecom Group, Inc. (ICG).**  
This resolution approves an interconnection agreement between Verizon California, Inc. and ICG in accordance with the provisions of General Order 96-A and Resolution ALJ-181.  
(Advice Letter 107 filed December 21, 2001)
- CA-15           Res T-16632 – Pacific Bell Telephone Company (Pacific).**  
This resolution approves an interconnection agreement between Pacific and CityNet Telecommunications, Inc, in accordance with the provisions of General Order 96-A and Resolution ALJ-181.  
(Advice Letter 22460 filed November 30, 2001)

- CA-16      Res T-16633 – Verizon California, Inc. (Verizon).**  
This resolution approves an interconnection agreement between Verizon and Ernest Communications, Inc. in accordance with the provisions of General Order 96-A and Resolution ALJ-181.  
(Advice Letter 9926 filed November 19, 2001)
- CA-17      C01-03-041 – XO California, Inc. vs. NorthPoint Communications, Inc.**  
This decision extends the statutory deadline for resolving this case pursuant to Pub. Util. Code § 1701.2(d) to December 31, 2002.  
(Com Wood – ALJ Walker)
- CA-18      C01-06-008 – Yucaipa MobileHome vs. Knollwood Mobilehome Estates, Ltd.**  
This decision extends the statutory deadline for resolving this case pursuant to Pub. Util. Code § 1701.2(d) to November 22, 2202.  
(Com Bilas – ALJ Walker)
- CA-19      A98-12-005 – GTE Corporation (GTE) and Bell Atlantic Corporation (Bell Atlantic).**  
GTE to transfer and Bell Atlantic to acquire control of GTE's California utility subsidiaries which will occur indirectly as a result of GTE's merger with Bell Atlantic. This decision concerns awards for substantial contributions to D00-03-021. The decision modifies D01-09-045 by adding response to comments on the ALJ's draft decision. This proceeding is closed.  
(Com Duque – ALJ Kotz)  
(Agenda 3073, Item CA-26, 10/10/01; Agenda 3080, Item CA-24, 1/23/02; Req - Commission)
- CA-20      A01-05-063 – Santa Clara Valley Transportation Authority (VTA).**  
This decision grants the request of VTA to construct an at-grade crossing at Race Street and Parkmoor Avenue, and an at-grade pedestrian crossing at Race Station by the light rail transit line of the Vasona Light Rail Project in the City of San Jose, Santa Clara County. This proceeding is closed  
(Exam Horner)
- CA-21      A01-05-064 - Santa Clara Valley Transportation Authority (VTA).**  
This decision grants the request of VTA to construct an at-grade crossing at Bascom Avenue and Stokes Street, and an at-grade pedestrian crossings at Bascom Station by the light rail transit line of the Vasona Light Rail Project in the City of San Jose, Santa Clara County. This proceeding is closed.  
(Exam Horner)

- CA-22      A01-05-065 - Santa Clara Valley Transportation Authority (VTA).**  
This decision grants the request of VTA to construct an at-grade crossing at West San Carlos Street by the light rail transit line of the Vasona Light Rail Project in the City of San Jose, Santa Clara County. This proceeding is closed.  
(Exam Horner)
- CA-23      A01-05-066 - Santa Clara Valley Transportation Authority (VTA).**  
This decision grants the request of VTA to construct an at-grade pedestrian crossings at Winchester Station by the light rail transit line of the Vasona Light Rail Project in the City of Campbell, Santa Clara County. This proceeding is closed.  
(Exam Horner)
- CA-24      A01-06-025 – The City of Newman.**  
This decision grants the request of the City of Newman to construct Sherman Parkway Crossing over the track's right-of-way of the California Northern Railroad Company. This proceeding is closed.  
(Exam Horner)
- CA-25      A01-09-023 – City of Burbank (City).**  
This decision authorizes the City to widen the existing overhead grade separation bridge structure of Burbank Boulevard over the Los Angeles County Metropolitan Transportation Authority's main line tracks and right-of-way in the City of Burbank, Los Angeles County.  
The existing overhead grade separation bridge structure will be widened 30 feet to the north. The widening will alleviate present traffic congestion and adequately provide for future traffic demand. This proceeding is closed.  
(Exam Horner)
- CA-26      A01-09-029 – Union Pacific Railroad Company.**  
This decision grants the request of Union Pacific Railroad Company to construct an Industrial Drill Track extension across Levin Avenue in Tulare, Tulare County. The track will provide freight rail service to the proposed United States Cold Storage facility. This proceeding is closed.  
(Exam Horner)
- CA-27      A01-10-029 – County of Sacramento (County).**  
This decision authorizes the County to construct the Elkhorn Boulevard overhead widening project over the Union Pacific Railroad and Roseville Road in the County of Sacramento. This proceeding is closed.  
(Exam Horner)

- CA-28            A01-09-043 – Nasser Fraydouni, Mahnaz Fereidouni and Babak Minasazi.**  
This decision authorizes Babak Minasazi to acquire from Nasser Fraydouni and Mahnaz Fereidouni 100% of the shares of Advanced Airporter, Inc. pursuant to Section 854 of the Pub. Util. Code. This proceeding is closed.  
(Exam Horner)
- CA-29            A01-07-037 – Qadeer A. Farrukh dba Fairfield Airporter and Chamkaur Giri.**  
This decision authorizes Qadeer A. Farruch to transfer his passenger stage cerificate operating between points in Solano County and the San Francisco, Oakland , San Jose, and the Sacramento International Airports to Chamkaur Giri. This proceeding is closed.  
(Exam Horner)
- CA-30            A00-11-026 – Broadwing Communications Services, Inc. (Broadwing).**  
For a certificate of public convenience and necessity (CPCN) to operate as a reseller & facilities-based provider of InterLATA and IntraLATA Telecommunications Service in the State of California. This decision authorizes Broadwing to expand its CPCN to install and construct fiber optic cable facilities for the provision of interLATA and intraLATA exchange services, as defined in the approved Mitigated Negative Declaration. This proceeding is closed.  
(Com Wood – ALJ Pulsifer)
- CA-31            R98-09-005 – Order instituting rulemaking on the Commission’s own motion to consider modifications to the Universal Lifeline Telephone Service Program and General Order 153.**  
This decision grants The Utility Reform Network an award of \$16,015, Public Advocates an award of \$38,409, and Greenlining Institute and Latino Issues Forum an award of \$27,720, in compensation for their substantial contributions to D00-10-028. Pacific Bell and Verizon California shall each pay in proportion to the number of access lines they serve.  
(Com Duque – ALJ DeUlloa)  
(Agenda 3068, Item CA-41, 8/2/01; Agenda 3080, Item CA-25, 1/23/02; Req - Commission)

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## REGULAR AGENDA

### UTILITY AND TRANSPORTATION ORDERS

#### *ORDERS HELD OVER*

##### **H-1           A00-07-043 - Pacific Gas and Electric Company (PG&E).**

For authority, among other things, to increase rates and charges for electric service effective on January 1, 2001. PG&E sought an attrition increase of \$184,575,000 starting January 1, 2001. The Office of Ratepayers Advocates (ORA) and others opposed. This decision grants an increase of \$150,838,000, based on the effect of inflation in 2001 on 1999 forecast expenses and on rate base. An inflation increase for 2000 is denied. The \$22.8 million balance in PG&E's Vegetation Management Balancing Account is credited to PG&E's Transition Revenue Account. ORA's proposal to refund the \$22.8 million directly to ratepayers is denied. The authorized increase is effective for tariff filing purposes January 1, 2001 as required by D00-12-061. However, because of the rate freeze, rates will not increase. This proceeding is closed.

(Com Wood – ALJ Barnett)

(Section 311(d).)

(Agenda 3077, Item CA-4, 12/11/01; Req - Commission)

##### **H-2           A99-12-012 - MCI WorldCom, Inc. (MCI) and Sprint Corporation (Sprint).**

For approval to transfer control of Sprint's California operating subsidiaries to MCI. This decision grants intervenor compensation to three intervenors who participated in developing the record of this proceeding, as follows: The Utility Reform Network: \$84,616.04, a reduction of \$10,019.00 from its requested amount of \$94,635.04; The Utility Consumers' Action Network: \$31,362.18, a reduction of \$10,915.63 from its requested amount of \$42,277.81; The Greenlining Institute/Latino Issues Forum: \$90,647.16, a reduction of \$109,273.84 from its requested amount of \$199,921.00. This proceeding is closed.

(Com Lynch – ALJ Thomas)

(Agenda 3080, Item CA-4, 1/23/02; Req - Commission)

**H-3            I \_\_\_\_\_ - Order Instituting Investigation on the Commission's own motion into the rate of return earned by Valencia Water Company (Valencia).**

By this order the Commission institutes an investigation into the operations and practices of Valencia to determine whether it has and will earn a rate of return in excess of that authorized by D94-12-020 and to establish the appropriate revenue requirement. This order also establishes a memorandum account in which all revenues in excess of those authorized by the 9.40% rate of return shall be placed, and requires Valencia to file a Notice of Intent to file its General Rate Case within 60 days of the service of this Order.

(Agenda 3079, Item 7, 1/9/02; Agenda 3080, Item H-5, 1/23/02; Req - Commission)

**H-4            100-05-020 - Order Instituting Investigation into the status, rates, rules, operations, service, facilities, equipment, contracts and practices of the Union Pacific Railroad Company in the supply, distribution, and sale of water by the Keene Water System to the communities of Keene and Woodford in Kern County.**

This decision addresses the issue of whether the Keene Water System operated by Union Pacific Railroad Company has been dedicated to public use for the benefit of the communities of Keene and Woodford in Kern County. The decision finds that dedication has occurred and that the Keene Water System is a public utility system subject to Commission jurisdiction pursuant to Public Utilities Code Section 2701. This proceeding is closed.

(Com Wood – ALJ DeUlloa)

(Section 311(d).)

(Agenda 3080, Item 1, 1/23/02; Req - Commission)

**H-5            R95-04-043 - Order instituting rulemaking on the Commission's own motion into competition for local exchange service. 195-04-044 – related matter.**

This decision denies in part and grants in part the petition to modify D98-01-022 filed by Metro One Telecommunications, Inc. and InfoNXX. The limited modification requires Pacific Bell to discontinue charging a per query fee to third-party purchasers of access to its Directory Assistance database.

(Com Bilas – ALJ Pulsifer)

(Section 311(g)(1).)

(Agenda 3075, Item 6, 11/8/01; Agenda 3080, Item H-7, 1/23/02; Req - Commission)

**H-6                    R97-04-011 - Order Instituting Rulemaking to Establish Standards of Conduct Governing Relationships Between Energy Utilities and Their Affiliates. I97-04-012 – Related matter.**

This decision revises the disclaimer requirement set forth in Section V.F.1 of the Affiliate Transaction Rules so that the revised language the Commission adopted for San Diego Gas & Electric Company and Southern California Gas Company will be made applicable to all utilities covered by the Rules. The decision also considers the implications of this revision on the penalty it assessed against Pacific Gas and Electric Company (PG&E) in D98-11-026 and D99-03-025. We determine that PG&E's penalty should be reduced to \$62,500, but not vacated because it is based on PG&E's violation of the legibility requirement, and is distinct from the portion of the Rule that we have subsequently found was not narrowly tailored to achieve an appropriate balance between utilities' commercial speech rights and the Commission's interest in promoting competition. These proceedings are closed.

(Com Bilas – ALJ Econome)

(Section 311(g)(1).)

(Agenda 3069, Item CA-4, 8/23/01; Agenda 3080, Item H-8, 1/23/02; Req – Commission)

**H-7                    R97-10-016 - Order Instituting Rulemaking on the Commission's Own Motion into Monitoring Performance of Operations Support Systems. I97-10-017 - Related matter.**

By this decision, the Commission adds the final piece to implement an operations support systems (OSS) performance remedies plan. This plan will provide incentives for the incumbent local exchange carriers (ILECs) to give competitors equitable access to their OSS infrastructure. The plan consists of performance measurements established in D01-05-087, performance criteria established in D01-01-037, and the monetary incentives we now adopt. The plan measures, evaluates, and charges an ILEC payments for OSS performance which could inhibit competition by disadvantaging the competitive local exchange carriers.

(Com Bilas - ALJ Reed)

(Section 311(g)(1).)

(Agenda 3080, Item 2, 1/23/02; Req - Commission)

- H-8**                    **R98-07-037 - Order Instituting Rulemaking on the Commission's Proposed Policies and Programs Governing Energy Efficiency, Low-Income Development and Demonstration..**  
This decision addresses Petitions to Modify D01-03-073 filed 1) jointly by Pacific Gas and Electric Company and Southern California Gas Company, 2) Kawakaski Motors Corporation U.S.A., and 3) RealEnergy Corporation. This decision also approves, in part, the petition filed by Kawakaski, but denies the other petitions.  
(Com Lynch – ALJ Gottstein)  
(Section 311(g)(1).)  
(Agenda 3079, Item 3, 1/9/02; Req - Commission)
- H-8a**                    **ALTERNATE ORDER TO ITEM H-8.** This alternate decision approves PG&E and SocalGas' joint petition to allow more of their customers to be eligible for self-generation program funding. This alternate also approves, in part, Kawasaki's petition, and denies RealEnergy's petition.  
(Com Bilas)

**ORDERS**

- 1           A00-11-038 – Southern California Edison Company.**  
For authority to institute a rate stabilization plan with a rate increase and end of rate freeze tariffs. A00-11-056, A00-10-028 – Related matters. This decision implements measures to allocate and collect \$10.003 billion in revenue requirements of the California Department of Water Resources covering the 2001-2002 period as prescribed under Assembly Bill 1X.  
(Com Brown – ALJ Pulsifer)  
(Section 311(d).)
- 2           A00-11-038 – Southern California Edison Company (Edison).**  
For authority to institute a rate stabilization plan with a rate increase and end of rate freeze tariffs. A00-11-056, A00-10-028 – Related matters. This decision establishes cost-of-service revenue requirements for the utility retained generation (URG) of Pacific Gas and Electric Company, Edison, and San Diego Gas & Electric Company. URG reflects the utility-incurred costs associated with utility-owned generation assets and purchased power. This decision adopts a January 2002 to December 2002 URG revenue requirement of \$2.875 billion for PG&E, \$3.794 billion for Edison, and \$465.860 million for SDG&E. This decision authorizes recovery of actual and reasonably incurred costs and adopts balancing accounts for PG&E, Edison, and SDG&E to ensure that these costs will be recovered.  
(Com Lynch – ALJ DeUlloa)  
(Section 311(d).)
- 2a          ALTERNATE ORDER TO ITEM 2.** These alternate pages reflect a few minor changes to the Administrative Law Judge's proposed decision. The only substantive change is that the alternate does not reduce Southern California Edison Company's return on equity as is proposed in the Administrative Law Judge's decision.  
(Com Lynch)

- 3                   A93-12-029 –Southern California Edison Company (SCE).**  
To Adopt a Performance Based Ratemaking Mechanism Effective January 1, 1995. I94-04-003 – Related matter. This decision modifies the performance-based ratemaking mechanism of SCE. The decision establishes a methodology to set revenue requirements for 2001 and 2002, creates a balancing account pursuant to Pub. Util. Code § 739.10, suspends the safety incentive program, and modifies the customer satisfaction and outage frequency performance benchmarks. These proceedings are closed. (Section 311(d).)  
(Com Duque – ALJ Sullivan)
- 4                   R02-01-011 – Order Instituting Rulemaking Regarding the Implementation of the Suspension of Direct Access Pursuant to Assembly Bill 1X and D01-09-060.** This decision suspends direct access as of July 1, 2001, rather than the September 20, 2001, suspension date of D01-09-060. It also implements the rules for those direct access contracts entered prior to July 1, holding that those contracts cannot be extended or assigned. This proceeding is closed.  
(Com Wood ALJ Barnett)
- 5                   C01-07-022 - Christopher J. Rooney and Debra G. Polak (Complainants) vs. Pacific Bell (Pacific).**  
Complainants allege that Pacific violated Pub. Util. Code § 851 by selling a vacant strip of land in Calpella, California, without the approval of the Commission. Pacific has presented unchallenged evidence that the property is not now and never has been “necessary or useful” within the meaning of Section 851 of the Code. Commission approval is not required in a utility’s sale of property not necessary or useful in the utility’s performance of its duties to the public. The complaint fails to state a cause of action for which relief can be granted by this Commission. The complaint is dismissed. This proceeding is closed  
(Com Duque – ALJ Walker)

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## UTILITIES RESOLUTIONS AND WRITTEN REPORTS

### ***ENERGY MATTERS***

- E-1            Res E-3758 – Pacific Gas and Electric Company (PG&E).**  
This resolution approves with modifications PG&E's request to implement changes to its net metering program as required by Assembly Bill X1-29. (Advice Letter (AL) 2118-E filed May 21, 2001, AL 2118-E-A filed June 7, 2001, and AL 2118-E-B filed June 11, 2001).
- E-2            Res E-3764 – Southern California Edison Company (SCE).**  
This resolution approves with modifications SCE's request to implement changes to its net metering program as required by Assembly Bill X1-29. (Advice Letter 1544-E filed May 21, 2001)
- E-3            Res G-3332 - Southwest Gas Corporation (SWG).**  
This resolution approves SWG 's request to temporarily decrease the Gas Cost component of Southern California rates from \$0.66743 to \$0.375 per therm effective January 16, 2002 through March 31, 2002. (Advice Letter 652 filed January 14, 2002)
- E-4            Res E-3613 – San Diego Gas & Electric Company (SDG&E).**  
This resolution approves SDG&E's request to charge a Scheduling Agent Fee to Monsanto Company for services regarding Monsanto's power flow to the Power Exchange and the Independent System Operator. (Advice Letter 1131-E filed November 4, 1998)  
(Section 311(g)(1).)  
(Agenda 3080, Item E-1, 1/23/02; Req - Commission)

**COMMISSIONERS' REPORTS**

**MANAGEMENT REPORTS**

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## CLOSED SESSION

*This notice is furnished under Government Code Sections 11125 and 11126.3. At any time during the meeting, the Commission may meet in Closed Session to consider any or all of the items listed below. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the disclosures required by Government Code Sections 11125.2 and 11126.3(f).*

### NON-FEDERAL ITEMS

#### ORDERS HELD OVER

- HEX-1**      **Conference with Legal Counsel – Applications for Rehearing**  
**A01-01-010** – Disposition of the rehearing application of D01-09-054 filed by Pacific Bell Telephone Company (Pacific). The decision affirmed the results adopted in the Final Arbitrator's Report, as modified, and approved the interconnection agreement between Pacific and MCImetro Access Transmission Services, L.L.C.  
(Gov. Code § 11126(e)(2)(B)(i).)  
(Agenda 3079, Item EX-10, 1/9/02; Req - Commission)
- HEX-2**      **Conference with Legal Counsel – Application for Rehearing.**  
**A01-05-032, A01-05 –043 and A01-05-044** – Disposition of Applications for Rehearing of Resolution M-4801, filed by the California Association of Competitive Telecommunications Companies, Southern California Edison Company and San Diego Gas & Electric Company/Southern California Gas Company, respectively. On April 19, 2001, by Resolution M-4801, the Commission confirmed staff's authority to suspend the effectiveness of advice letter filings of tariff changes.  
(Gov. Code § 11126(e)(2)(B)(i).)  
(Agenda 3071, Item EX-8, 9/20/01; Agenda 3080, Item HEX-1, 1/23/02; Req - Commission)

- HEX-3      Conference with Legal Counsel – Applications for Rehearing  
C98-04-004, C98-06-003, C98-06-027, C98-06-049, I90-02-047 –**  
Disposition of applications for rehearing of D01-09-058 filed by Communications Workers of America, Greenlining Institute, Latino Issues Forum and the 31 Individual Complainants, and Pacific Bell. D01-09-058 is a final decision in a complaint proceeding against Pacific Bell regarding its practices for marketing optional services to residential customers.  
(Gov. Code § 11126(e)(2)(B)(i).)  
(Agenda 3079, Item EX-8, 1/9/02; Req - Commission)
- HEX-4      Conference with Legal Counsel – Initiation of Enforcement Proceeding**  
Deliberation on institution of proceeding or disciplinary actions against person or entities subject to Commission’s jurisdiction. (Disclosure of case name would fail to protect the private economic or business reputation of the person or entity if the proceeding or disciplinary action is not commenced and disclosure could also jeopardize the ability to effect personal service on the Respondent.)  
(Gov. Code §§ 11126(d)(2), 11126(e)(2)(C)(i).)  
(Agenda 3077, Item EX-5, 12/11/01; Agenda 3080, Item HEX-3, 1/23/02; Req - Commission)
- HEX-5      Conference with Legal Counsel – Application for Rehearing  
R99-11-022 –** Disposition of applications for rehearing of D01-03-067 filed by Calpine Corporation, Caithness Energy, Mega Renewables, Mega Hydro I, Central Hydroelectric Corporation, Tractable Power, Inc. et al, CE Generation, Cogeneration Association of California, California Cogeneration Council, Independent Energy Producers Association, and County of Los Angeles. In D01-03-067 the Commission adjusted the short-run avoided cost formula pursuant to Section 390 of the California Public Utilities Code. The applicants seeking rehearing oppose the formula adjustments which affect the energy payments to be made by Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas and Electric Company to Qualifying Facilities under the Federal Public Utility Regulatory Policies Act of 1978.  
(Gov. Code § 11126(e)(2)(B)(i).)  
(Agenda 3067, Item EX-8, 7/12/01; Agenda 3080, Item HEX-5, 1/23/02; Req - Commission)

**ORDERS**

- EX-1            Conference with Legal Counsel – Applications for Rehearing**  
Compilation of applications for rehearing recently filed with the Commission.  
(Gov. Code §. 11126(e)(2)(B)(i).)
- EX-2            Conference with Legal Counsel – Threatened Litigation**  
Significant exposure to litigation.  
(Gov. Code § 11126(e)(2)(B).)
- EX-3            Conference with Legal Counsel – Initiation of Litigation**  
Consideration of possible Commission initiation of, or intervention in, litigation.  
(Gov. Code § 11126(e)(2)(C)(i).)
- EX-4            Personnel Matters**  
Consideration of appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee.  
(Gov. Code § 11126(a).)
- EX-5            Conference with Legal Counsel – Application for Rehearing**  
**C00-08-053** – Disposition of the application for rehearing of D01-08-067 filed by the Pacific Bell Telephone Company on September 28, 2001.  
(Gov. Code § 11126(e)(2)(B)(i).)
- EX-6            Conference with Legal Counsel – Initiation of Enforcement Proceeding**  
Deliberation on institution of proceeding or disciplinary actions against person or entities under the Commission's jurisdiction. (Disclosure of case name would fail to protect the private economic or business reputation of the person or entity if the proceeding or disciplinary action is not commenced and disclosure could also jeopardize the ability to effect personal service on the Respondent.)  
(Gov. Code §§ 11126(d)(2), 11126(e)(2)(C)(i).)

**EX-7****Conference with Legal Counsel – Application for Rehearing**

**A00-11-038; A00-11-056; A00-10-028** – Disposition of the application for rehearing of D01-10-067 filed by Pacific Gas & Electric Company (PG&E). D01-10-067 concludes that: (1) the market valuation requirement of Public Utilities Code Section 367 (b) does not apply to setting a prospective utility retained generation (URG) revenue requirement for PG&E, and (2) shortfalls in the Transition Cost Balancing Account (TCBA) cannot be recovered through PG&E's URG revenue requirement. PG&E argues that the decision errs in its interpretation of AB X6, and that the decision's refusal to allow recovery of PG&E's undercollected TCBA balance is arbitrary, discriminatory, and confiscatory. PG&E also argues that the Commission violated its due process rights and is equitably estopped from failing to include the market value of its generation assets in rates. (Gov. Code § 11126(e)(2)(B)(i).)

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**FEDERAL ITEMS**

- FEX-1      Conference with Legal Counsel – Initiation of Litigation**  
Consideration of possible Commission initiation of, or intervention in,  
federal agency or court proceedings.  
(Gov. Code § 11126(e)(2)(C)(i).)
- FEX-2      Conference with Legal Counsel – Existing Litigation**  
Pacific Gas and Electric Company, Debtor, United States Bankruptcy Court,  
Northern District of California, San Francisco Division, Case  
No. 01 30923 DM.  
(Gov. Code § 11126(e)(2)(A).)
- FEX-3      Conference with Legal Counsel – Existing Litigation.**  
Southern California Edison Company v. Lynch, et al., United States District  
Court, Central District of California, Western Division, Case  
No. 00-12056-RSWL (Mcx).  
(Gov. Code § 11126(e)(2)(A).)

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